

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LEGALFORCE RAPC WORLDWIDE
P.C.,

Plaintiff,

v.

MH SUB I, LLC,

Defendant.

No. C 24-00669 WHA

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Law firm LegalForce RAPC Worldwide P.C. brought this trademark action accusing online referrer to law firms MH Sub I, LLC of infringing two service marks.

Following a four-day bench trial, each side proposed findings of fact and each side agreed with or objected to each of the other side's proposals. While the district judge has read the proposed findings and adopted some of them, this order need not and does not address each one. This order makes its own findings from the actual evidence at trial. That said, it also accepts as proven all stipulated facts and all proposed findings of fact written by one side and expressly and wholly agreed to by the other side.

All declarative statements anywhere in this order are factual findings. Citations to the record are provided only as to particulars that may assist the court of appeals. Citations to the first day of trial are to "Oct. 7 Tr." and, because the transcript numbering then restarted by mistake, citations to all other days of trial are to "Tr."

FINDINGS OF FACT

1. PLAINTIFF'S BUSINESS AND MARKS.

A. PLAINTIFF'S BUSINESS.

1. Plaintiff LegalForce RAPC Worldwide P.C. is a law firm specializing in trademark law and providing limited services in other areas of intellectual property law. For instance, it registers trademarks at low cost with the U.S. Patent and Trademark Office. Plaintiff's chief executive officer is Raj Abhyanker, who is also its trial counsel in this action (in the latter role referred to as "Attorney Abhyanker").

2. Plaintiff uses the service name LegalForce and the webpage www.legalforce.com. The law firm also owns a search engine for trademarks that primarily has used the service name Trademarkia and the website www.trademarkia.com. The search engine has attracted visitors looking for trademarks and has converted some into paying clients for the law firm. The service marks for "Trademarkia" are not at issue. No mere service name is at issue.

B. PLAINTIFF'S MARKS.

(i) Plaintiff's Composite.

3. In 2012, prior to plaintiff's formation, Mr. Abhyanker began using a service mark while providing legal services in California and across the United States. In 2013, the U.S. Patent and Trademark Office approved the mark and it issued on the principal register as Registration No. 4,346,898. In 2019, the mark became incontestable. And, in 2021, it was transferred to plaintiff.

4. That mark is for exclusive use in Class 45, Personal & Legal & Social Services. That class includes "law firm services" as well as services "providing general information in the field of legal services via a global computer network."

5. The mark comprises a symbol and a stylized word. The symbol is a parallelogram colored orange (with a gradient from lighter to darker) and having two rounded corners (top left and bottom right) and two sharp ones (the other two); nested inside are the lighter-colored letters "L^F". The stylized word is to the right of this symbol and reads: "LegalForce".

6. This mark is referred to here as “Plaintiff’s Composite.”

Registration No. 4,346,898 (“Plaintiff’s Composite”)





(ii) *Plaintiff’s Symbol.*

7. In 2012, Mr. Abhyanker also began using in some instances just the symbol portion of the mark above — slightly modified, and without the stylized word portion.

8. Then, in January 2024, in anticipation of this litigation, plaintiff applied to register just this symbol expressly without any claim to color. And, in June 2025, soon before trial, that registration issued on the principal register as Registration No. 7,911,138.

9. This mark is referred to here as “Plaintiff’s Symbol.”

Registration No. 7,911,138 (“Plaintiff’s Symbol”)




10. Plaintiff failed to submit certified copies of the above registrations before our October 2025 bench trial and had no acceptable excuse for the failure. Instead, plaintiff submitted non-certified copies before trial, then submitted certified copies after the trial record closed. Plaintiff could have and should have ordered the certified copies in time for trial. This is emblematic of the way plaintiff has prosecuted this entire case. Nevertheless, this order will treat the certificates as having been proven.

2. DEFENDANT’S BUSINESS AND MARKS.

A. DEFENDANT’S BUSINESS.

11. Defendant MH Sub I, LLC, doing business as Internet Brands, is a holding company of mostly online properties including WebMD, Martindale, Nolo, Avvo, and — especially relevant here — www.lawfirms.com. Defendant does not operate any law firm.

12. At all relevant times, defendant has offered online referrals to law firms. People having legal problems have been attracted by advertising to www.lawfirms.com, where some have filled out an interest form. Defendant has packaged the resulting client “leads” and provided them to paying lawyers, including lawyers listed on online directories defendant also owns, such as www.avvo.com. The service marks for sites other than for www.lawfirms.com are not at issue. Again, no mere service names are at issue.

B. DEFENDANT’S MARKS.

(i) Defendant’s Composite.

13. From November 2023 to July 2024, defendant used an unregistered service mark in connection with referrals to law firms made in California and across the United States through www.lawfirms.com.

14. The mark comprised a symbol and a stylized word. The symbol was a parallelogram colored orange having two sharp corners (in the top left and bottom right) and two rounded ones (the other two); nested inside was a white Roman column. The stylized word was to the right of this symbol and read: “**LawFirms.com**.”

15. This mark is referred to here as “Defendant’s Composite.”



(ii) Defendant’s Replacement.

16. In July 2024, soon after this litigation began, defendant began using a modified version. The symbol’s color changed to crimson, and the symbol’s corners changed so that both top ones were sharp while both bottom ones were rounded; it still contained the column. The stylized word remained intact to the right.

17. This mark is referred to as “Defendant’s Replacement.”



1 18. In February 2024, plaintiff brought suit alleging primarily that Defendant's
2 Composite infringed Plaintiff's Composite and Plaintiff's Symbol (the latter not yet
3 registered). The suit also alleged false advertising.

4 19. At our first hearing in the action, the district judge suggested that defendant
5 change the color of the parallelogram in Defendant's Composite from orange to some other
6 color, recommending gray, blue, or green as non-aggressive colors. This was done to try to
7 end the case and to spare both sides the cost of litigation. It was not done because the district
8 judge thought there was (or was not) infringement. No finding or suggestion of infringement
9 was made by the district judge. Defendant did change the mark, as set out above — from
10 Defendant's Composite to Defendant's Replacement.

11 20. Plaintiff, however, did not drop the lawsuit but shortly before trial did drop any
12 claim for damages and sought only injunctive relief. Both sides have spent considerable sums
13 litigating this case and fighting endlessly over discovery. This led to a four-day bench trial on
14 October 7, 27, 28, and 29, all 2025. To accommodate one of plaintiff's witnesses, we took that
15 witness on October 7 with the testimony subject to any orders following our pretrial conference
16 on October 22 (*see* Dkt. No. 263 (order re testimony); Dkt. Nos. 304, 310 (final pretrial
17 conference and order)).

18 21. The main issue at trial was likelihood of confusion involving the original
19 Defendant's Composite (because plaintiff professed to be worried that defendant would revert
20 to using it). As to false advertising, plaintiff had not alleged — nor at trial did plaintiff proffer
21 any evidence of — false statements, false association, or false endorsement other than
22 defendant's use of the accused mark.

23 22. So, whether there was any likelihood to confuse consumers between Defendant's
24 Composite (the original one) versus plaintiff's marks became the axis of contention.

1 **3. SLEEKCRAFT FACTORS.**

2 23. This order organizes its further findings under the factors concerning likelihood of
3 trademark confusion from *AMF Inc. v. Sleekcraft Boats*, 599 F.2d 341, 348–49 (9th Cir. 1979).

4 **(i) No Actual Confusion.**

5 24. No one was actually confused or misled by Defendant’s Composite (or its
6 Replacement). Indeed, plaintiff produced zero evidence of actual confusion. For example:
7 There is zero evidence that anyone who saw an ad for defendant’s referrals service to law firms
8 believed he was seeing an ad for plaintiff’s law firm. There is zero evidence that anyone who
9 visited defendant’s www.lawfirms.com website, which displayed defendant’s marks, believed
10 he was visiting plaintiff’s www.legalforce.com website. There is zero evidence that anyone
11 who was referred to a law firm by defendant believed he was being referred to a law firm by
12 plaintiff, or believed he was being referred to plaintiff.

13 25. Plaintiff conceded there was no actual confusion but contends that the other
14 *Sleekcraft* factors point in its favor, and that confusion could arise were use of the accused
15 marks to continue. This order finds otherwise.

16 **(ii) Not the Same Marketing Channels.**

17 26. Defendant has not marketed its services using Defendant’s Composite (or its
18 Replacement) in the same specific places where plaintiff markets its services using Plaintiff’s
19 Composite (or its Symbol), so there has been and will be no occasion for consumers to see both
20 services’ marks and to confuse one versus the other. Plaintiff has marketed its services using
21 web search, its own webpages as such, and select social media, as well as at tech conferences
22 and in a one-time retail location.

23 27. *Web Search:* Both plaintiff and defendant have used keyword marketing but this
24 order finds that no single web search has returned or will ever likely return both plaintiff’s and
25 defendant’s websites showing their marks. A business can bid on words a person might use in
26 a Google search when they look for a service, and the top bidder’s website is rewarded with a
27 prominent, sponsored placement in the results for the search. Plaintiff produced no credible
28 evidence that plaintiff and defendant — specifically for the websites bearing or likely to bear

1 the marks at issue — have bid on the same keywords or would. Defendant did not engage in
2 “keyword squatting,” whereby a defendant’s keyword bidding makes searches for a plaintiff
3 return results also or instead for a defendant.

4 28. Both plaintiff and defendant have used other means to influence how their
5 websites rank and appear in search results. Plaintiff produced no credible evidence that
6 defendant has undertaken any effort to appear in search results for the same searches as
7 plaintiff, or ever would. For instance, plaintiff produced no credible evidence that defendant’s
8 meta descriptions on www.lawfirms.com, which are read by search engines, have prompted
9 defendant’s webpage to appear in the results of any search where plaintiff’s webpage would be
10 expected to appear.

11 29. At trial, the district judge specifically asked both sides if there was any evidence
12 of any actual web searches returning results showing the actual service marks at issue. Neither
13 side produced any such evidence. Plaintiff did not prove that a single search query ever has
14 fetched any of (i) Plaintiff’s Composite, (ii) Defendant’s Composite (or its Replacement),
15 (iii) Plaintiff’s Symbol, and/or (iv) the symbol portion of Defendant’s Composite (or its
16 Replacement) — whether separately or together or in any combination. No credible evidence
17 showed even that the service names have appeared alongside each other.

18 30. In sum, there is no credible evidence that the service marks at issue ever have
19 appeared side by side on the same online “shelf,” nor any credible evidence that one service
20 mark has appeared where the other would have been expected.

21 31. *Artificial Intelligence:* At trial, responding to the district judge’s questions about
22 the evidence concerning web searches, plaintiff’s counsel argued (as counsel, not as witness):
23 “Your honor, Google is dead” (Tr. 360). Plaintiff’s counsel, Attorney Abhyanker, for the first
24 time ever offered a theory of how search queries posed to artificial intelligence chatbots, like
25 ChatGPT or Perplexity, might be returned with confusing results (*see* Dkt. No. 323).

26 32. No admissible evidence was ever presented that supported such theories. At trial,
27 for example, Attorney Abhyanker asked defendant’s survey expert about such possibilities;
28 defendant’s expert was not qualified to answer. And, Mr. Abhyanker’s own thoughts on these

1 topics shared from the witness stand were not cogent or credible, either. In a brief submitted
2 midtrial on “AI recommendation system[s]” and “paradigm[s] of consumer perception” (*id.*
3 ¶ 25), Attorney Abhyanker cited to online tech blogs, online data about AI “use cases,” and
4 other such sources; no judicial notice was requested, and it would have been denied. The only
5 actual trial evidence *cited* by the brief were three snippets of deposition statements that had
6 been read into the record, but which were not statements concerning A.I.-mediated confusion
7 at all (*see id.* at nn.19–20, 22). (The brief itself was not evidence (Tr. 458).)

8 33. *Web Browsers:* Both defendant and plaintiff have used websites that display their
9 respective marks. No one has ever typed into their web browser a web address involving a
10 service name associated with plaintiff, as in www.legalforce.com, only to arrive by mistake at
11 defendant’s website displaying the accused mark, www.lawfirms.com. And, no credible
12 evidence proved that anything about the websites themselves was confusing. Defendant has
13 done no “cybersquatting” to somehow make defendant’s website more proximate to plaintiff’s
14 website or more confounding to its customers on the worldwide web.

15 34. *Social Media:* Both defendant and plaintiff have used the service marks at issue
16 in social media, but not on the same social media platforms.

17 35. For its part, plaintiff has used Plaintiff’s Symbol on the professional networking
18 site LinkedIn to designate its corporate profile and its employees’ place of employment.
19 (Specifically, it has placed a version of this symbol above the stylized words “**LegalForce**” as
20 one compact logo — in other words, arranging the parts of Plaintiff’s Composite but vertically
21 not horizontally.) There was no evidence that *defendant* has used the symbol portion of or the
22 entirety of Defendant’s Composite on LinkedIn. Nor was there evidence defendant would use
23 such marks on LinkedIn, even descriptively. “LawFirms.com,” unlike LegalForce, does not
24 target businesspeople. It is not the service name of a standalone business with its own
25 employees.

26 36. Defendant, for its part, has instead marketed to individuals on the social media
27 sites Instagram, Facebook, and TikTok using Defendant’s Composite. There is no credible
28 evidence that *plaintiff* has marketed on Instagram, Facebook, or TikTok using Plaintiff’s

1 Composite (or Symbol), or would. At trial, defense counsel specifically asked plaintiff's
2 witnesses for testimony or other evidence that LegalForce had placed an ad on Instagram using
3 its marks. No credible testimony nor any documentary evidence ever proved it had done so.

4 37. *Conferences and Physical Locations:* Prior to this litigation, plaintiff had not
5 used its service marks at any conference. And, since its predecessor entity closed a retail
6 location more than a decade ago, plaintiff has not used anything like its service marks at any
7 physical office for marketing to new customers. There is no evidence defendant has used
8 Defendant's Composite (or Replacement) in any conference or physical location whatsoever.
9 There is no credible evidence defendant ever would.

10 * * *

11 38. Simply put, there is no proof that consumers have ever seen or will ever see the
12 service marks at issue in the same marketing channel — not side-by-side, not serially (such as
13 after a Google search for one instead returns the other), not in any way. LegalForce and
14 LawFirms.com are not marketed in the same places in part because they do not offer the same
15 services.

16 (iii) *Not the Same Services.*

17 39. Defendant and plaintiff have not offered the same services and usually not to the
18 same people. At the highest level of generality, of course, both businesses have made money
19 by helping solve legal problems for people.

20 40. *Defendant* is not a law firm, nor would it appear to be a law firm to those who use
21 it. Instead, it has run several websites to generate referrals to third-party law firms and
22 lawyers. Its website www.lawfirms.com always has presented a webform for people to fill out,
23 and before this litigation also presented legal blogs and links to one of its directory websites.
24 Defendant's directory websites, like www.avvo.com, have listed lawyers for people to browse.
25 Referrals from www.lawfirms.com and other properties of defendant sometimes have been
26 provided for purchase or subscription to lawyers on the directory sites like www.avvo.com. Of
27 defendant's websites, only www.lawfirms.com has used or would use the accused marks.
28

1 There was no evidence that prospective lawyers buying those referrals would see the accused
2 mark.

3 41. True, www.avvo.com has listed some trademark lawyers. But
4 www.lawfirms.com almost always has attracted and referred individuals having personal
5 problems. These include personal injuries (like from car accidents), employment issues
6 (worker's compensation), and family matters (divorce). The website far less frequently and
7 without targeting has attracted and referred individual business owners having business
8 problems, such as with intellectual property. It has presented all comers with a general
9 webform. Some (very few) who have completed the form have indicated in it that they had
10 trademark needs.

11 42. These leads have been stored in a large leads database — the so-called Nolo
12 database — together with leads from at least one of defendant's other sites. Each lead has been
13 labeled by its originating site. Many have been distributed to lawyers. The revenue for each
14 personal injury lead has been about \$85. The revenue for each trademark lead has been about
15 \$46.

16 43. For all periods placed at issue by plaintiff, www.lawfirms.com in total collected
17 and distributed fewer than 25 trademark leads to trademark lawyers, representing less than
18 \$1,000 in revenues. This was a small fraction of all leads and revenue generated by
19 www.lawfirms.com for those periods. For the specific November 2023 to July 2024 period
20 when www.lawfirms.com used the accused mark, zero trademark leads and indeed zero
21 intellectual property leads of any kind were even collected.

22 44. *Plaintiff*, by contrast, runs a law firm specializing in trademarks and intellectual
23 property as well as several websites to attract businesspeople having such needs to its own law
24 firm. Plaintiff has never provided legal services for personal injury, employment issues, or
25 family law. Nor has plaintiff ever received any appreciable number of inquiries from any
26 persons seeking any such services. Plaintiff has never systematically made referrals of any
27 kind to any other lawyers or law firms.
28

1 45. In sum, the overlap has been virtually non-existent. Yes, a small part of
2 defendant's business has involved referring people to trademark lawyers but even there an
3 important difference exists between a referral service that sells leads to law firms versus a law
4 firm providing legal services.

5 (iv) *No Likelihood of Expansion.*

6 46. Again, plaintiff has not served a broader array of legal needs nor referred people
7 with legal needs to lawyers — but plaintiff now states an intent to do both.

8 47. Such supposed intent is rejected as false. Plaintiff has had more than a decade to
9 broaden its legal practice and/or to begin making referrals systematically to other lawyers and
10 it has failed to do either. The supposed new plans are a fanciful gimmick invented solely for
11 trial purposes.

12 48. Plaintiff's chief executive officer, Mr. Abhyanker, for instance, testified in vague
13 terms that plaintiff already had provided pathways for small business owners to communicate
14 with one another about the various problems they faced and to connect with other lawyers to
15 take on their wide-ranging problems. None of this testimony contained factual specifics. None
16 was supported by other evidence. None was delivered by a credible witness.

17 49. Nor does defendant, for its part, have any intent to expand into generating
18 appreciable numbers of referrals to trademark or intellectual property lawyers using
19 Defendant's Composite. Defendant has generated precious few leads for intellectual property
20 lawyers through www.lawfirms.com. This was true before www.lawfirms.com began using
21 Defendant's Composite, and it remained true after the site began using Defendant's Composite
22 (and Replacement).

23 (v) *Not Careless Customers.*

24 50. People seeking referral to a trademark or intellectual property lawyer exercise
25 moderate care. They are more mentally alert than someone grabbing a lemon-lime soda. They
26 would not be likely to confuse the two marks even if the marks were seen side by side.

27 51. The evidence on care came primarily from three sources. *First*, plaintiff elicited
28 through examination of defense witnesses that defendant's lawyer directory on www.avvo.com

(not www.lawfirms.com) included listings for trademark lawyers. This provided circumstantial evidence that persons seeking trademark lawyers find it useful to look up information about multiple lawyers or law firms before settling on one. *Second*, one of plaintiff's experts testified that while consumers of legal services tend to be sophisticated and take great care, plaintiff has offered relatively less expensive trademark registration services, suggesting but expressly not concluding that they may be relatively less sophisticated and take relatively less care (Tr. 338–39). Relatively less care is not no care — especially if being compared to the care taken for more expensive legal services. *Third*, plaintiff read in deposition testimony from defendant's employee that a trademark lead commands about half the price of a personal injury lead, at about \$46 compared to about \$80 to \$90. Protecting a business's reputation is important, even if it is on average more important to be made whole after the kind of bodily injury that prompts a person to seek a lawyer.

52. In sum, plaintiff did not prove that its current customers exercise low care, much less prove that its future customers would exercise low care if it were to expand to compete with defendant's broader array of referral services for a broader set of legal problems. Customers seeking lawyers exercise at least moderate care.

(vi) Not a Strong Senior Mark.

53. Plaintiff's Composite has been deemed incontestable, while Plaintiff's Symbol has not. Other factual evidence is as follows:

54. *Commercially*, plaintiff has used Plaintiff's Composite and Plaintiff's Symbol in its business but barely so.

55. Plaintiff's marketing efforts usually have involved the service name and service marks for "Trademarkia." Far less frequently and less prominently, plaintiff has used the service name and service marks for "LegalForce." On plaintiff's own websites, the service marks for "Trademarkia" have appeared in the header for www.trademarkia.com as well as in the header for www.legalforce.com — in the latter case coupled up with Plaintiff's Composite. Plaintiff's Composite has not appeared in the header for www.trademarkia.com, only in its footer. And, on third-party websites or otherwise, plaintiff's service marks have appeared only

1 *unpaid*, if at all. At trial, defense counsel repeatedly asked witnesses for any evidence of any
2 paid advertisement using plaintiff's "LegalForce" service name or marks and no credible
3 testimony or documentary evidence of such was ever produced at trial. Only a tiny fraction of
4 plaintiff's marketing budget can be deemed to have promoted the "LegalForce" service marks
5 at issue here.

6 56. Plaintiff's "Trademarkia" service name and marks have become known among
7 those who regularly deal in trademarks. Plaintiff's "LegalForce" service name and marks have
8 not become well known even among the ones who know "Trademarkia." Plaintiff did not even
9 prove that its own law firm clients know the name "LegalForce." Emails among the lawyers
10 from plaintiff's law firm representing plaintiff in this case sometimes used the service mark for
11 "Trademarkia," not for "LegalForce."

12 57. Again: The marks for "Trademarkia" and for "LegalForce" are readily
13 distinguishable. Consumers did not, do not, and will never consider them to be one and the
14 same mark or even variations of one another.

15 58. *Conceptually*, Plaintiff's Symbol and Composite comprise common features
16 arranged in a common way, with limited distinctions.

17 59. Plaintiff's Symbol disclaimed color so was not distinguished by color. And its
18 general shape — a squat parallelogram with some rounded corners and some unrounded
19 ones — was shared by other marks in commerce. Twin arches it is not.

20 60. Plaintiff's Composite is its symbol confined to an orange color and complemented
21 by a stylized word. As for the symbol portion, there were many other orange parallelograms
22 already in use. The gradient applied (from lighter to darker) added a slight distinction. As for
23 the stylized word portion, the words were chosen to describe the legal force protecting the
24 client. The first word was styled in bold ("**Legal**"), the second in plain text ("Force"), and both
25 first letters were capitalized. Bolding one but not both words distinguished the stylings from
26 other marks somewhat. As for the overall arrangement in a "horizontal stack" with the symbol
27 on the left and the word on the right, this choice was not arbitrary. It was a common and
28 functional choice to fit well at the top of a website. And, when that overall arrangement was

1 not as functional for a situation, another functional arrangement was used instead: For
2 example, the symbol was placed above the word in a compact “vertical stack” for use on
3 plaintiff’s chief executive’s LinkedIn profile. The horizontal arrangement at issue was thus not
4 a distinct or sole choice itself associated with the mark’s source. One of plaintiff’s experts
5 opined that the mark taken as a whole was “conceptually on the weaker end” (Tr. 336), and
6 this order agrees.

7 61. In sum, Plaintiff’s Symbol and Plaintiff’s Composite lack commercial and
8 conceptual strength.

9 *(vii) No Intent to Confuse in Selecting Junior Mark.*

10 62. Defendant did not select defendant’s mark because of plaintiff’s marks.
11 Defendant had no reason to ride plaintiff’s coattails, nor even to step on them: Plaintiff’s
12 marks were not well known. Plaintiff and Defendant were not proximate or expanding.

13 63. Defendant witnesses explained how its mark was selected and it had nothing to do
14 with plaintiff’s marks or plaintiff whatsoever. As for the symbol portion, defendant chose a
15 squat parallelogram because it presented well on websites in conjunction with words.
16 Defendant chose to place a column inside it because a column conventionally suggested courts
17 and the lawyers who appear in them. Defendant chose “**LawFirms.com**” because its online
18 website with that domain referred people to law firms. Defendant chose its colors, fonts, and
19 stylings for its www.lawfirms.com logo to complement one of its existing logos — one reason
20 being that employees discussed displaying its new logo with the phrase “powered by” plus its
21 existing logo for Avvo — and so chose an orange for its new logo to complement the blue of
22 the existing logo (designers treat those colors as complementary). Defendant then chose the
23 sizing and stacking of all these components, which again matched its existing logos, so that its
24 mark could be configured to appear clearly at the top of its website.

25 64. The worst that could be said was that defendant neglected to do a trademark
26 search before settling on a mark that assembled common elements in a common way.
27 Defendant’s design manager had not heard of LegalForce before this action, and she saw its
28 marks for the first time only after our first hearing prompted defendant to redesign its mark to

1 avoid plaintiff's marks further, this undertaken the week after our first hearing. The failure to
2 conduct a trademark search before selecting the original mark did not result from bad faith. A
3 trademark search was not required by law.

4 *(viii) Not Similar Marks.*

5 65. Although some similarities would be appreciated if Plaintiff's Composite and
6 Defendant's Composite were ever compared in commerce (they were and are not, as above),
7 the differences between the marks would still stand out. Purchasers of legal services would not
8 be so cavalier as to overlook these differences. The composites are compared here part to part,
9 then whole to whole.

10 66. As for the symbol portions, the senior mark has an "L^F", while the junior mark
11 has a Roman column, and each of these is placed in front of a squat parallelogram. *At sight*,
12 the "L^F" does not have the same outline as the column. And, *in meaning*, the initials "L^F" do
13 not suggest the same thing as the Roman column. The background shapes, for their part, are
14 similar in outline to one another but also to those of other icons. And, these shapes are filled
15 somewhat differently: The one in Plaintiff's Composite uses orange with a gradient (from
16 lighter to darker), while the one in Defendant's Composite uses orange without any gradient
17 (one flat shade). These shapes do not communicate anything beyond what each frames, the
18 "L^F" or the column. (If taken alone, Plaintiff's Symbol did not claim color.)

19 67. As for the word portions, the senior mark bears "**LegalForce**" while the junior
20 mark bears "**LawFirms.com**." *At sight*, yes, each set of letters includes the capitalized letters
21 L and F. Still, these letters spell different words. And, yes, each mark's lettering has an initial
22 group bolded and a latter group not. Still, the senior mark bolds only the first word, "**Legal**,"
23 but not the second, "Force," while the junior mark bolds both words "**LawFirms**." *In*
24 *meaning*, the senior mark describes *one* legal force, while the junior mark uses the generic term
25 for many or *all* law firms. That meaning relates to one being one law firm and the other being
26 a referral service to many law firms. Again, the words "Law" and "Firms" do not appear
27 anywhere in "LegalForce," and the words "Legal" and "Force" do not appear anywhere in
28 "LawFirms." *If heard* (or read), these different words do not sound the same.

1 68. As for the combined whole, the composites at issue are arranged in a so-called
2 horizontal stack, as set out above. The arrangement is a common, functional choice for
3 combining symbols and words into a mark that can be displayed at the top of a web page. No
4 credible evidence proved that when viewing the marks as a whole this horizontal stacking itself
5 was important to any consumer impression or to any association with any service. Again,
6 LegalForce sometimes used a vertical stack. The impression from such marks was instead
7 formed mainly by glomming onto one part and then the other part, regardless of such parts'
8 arrangement. Although the marks had some similarities, they were not close to identical —
9 and in fact the differences stood out in the overall consumer impression.

10 69. At trial, plaintiff's evidence of similarity leading to confusion included testimony
11 respecting a survey conducted by plaintiff wherein respondents were shown head-to-head
12 comparisons of the composites and posed with this scenario: "If you saw the logos [below] on
13 two different websites [whe]n searching for law firms, would you think they are connected,
14 affiliated, or associated in any way?" (Oct. 7 Tr. 90). The percentage answering "Yes," we
15 eventually learned, was 13 percent.

16 70. On direct, plaintiff's Expert Michael Lawrence Rodenbaugh initially testified that
17 the "percentage [who] believed that the two businesses were connected, affiliated, or
18 associated" was "32 percent" (Oct. 7 Tr. 30). On cross, he repeated that testimony before
19 conceding that there were in fact three answers — "No," "Maybe," and "Yes" — and that he
20 had lumped the "Maybe" (19 percent) with the "Yes" (13 percent). He also watered down the
21 previous description of his 32 percent number from those who "believed that the two
22 businesses were connected" to those who "d[id]n't know one way or the other" under the
23 scenario (Oct. 7 Tr. 91–92). This is emblematic of the lack of credibility of plaintiff's case.
24 More will be said about that below. For the moment, the shortcomings of this question and
25 answer deserve further comment.

26 71. The survey question posed a scenario that was not specific and that did not reflect
27 any scenario proven to exist or to be likely to exist in commerce. It asked what the respondent
28 would think "[i]f you saw the logos [below] on two different websites [whe]n searching for

1 law firms.” It *did not* pose what specific search or search process would ever lead to the two
2 (no web search or even consumer search process leading to both was proven to have existed or
3 to be likely, as the sites targeted different people needing different things). It *did not* pose
4 what specific formatting or stated offerings each website would share (no such similarities
5 across the websites were proven up). It *did*, however, show the two composite marks head-to-
6 head (even as no head-to-head comparison was proven to have existed or even be likely). So,
7 in response to the broad scenario posed, it was reasonable for some respondents to answer
8 “Maybe”: Maybe they would think the websites were associated, depending on the specifics.
9 Given the specifics of how the marks have existed or are likely to exist in commerce, however,
10 it was unreasonable to assume that every “Maybe” in the imagined scenario would remain a
11 “Yes” in any real one. Of course, there were even more significant methodological pitfalls, set
12 out further below.

13 72. In a separate question, plaintiff’s survey showed respondents a head-to-head
14 comparison of Plaintiff’s Symbol versus the symbol portion of Defendant’s Composite, then
15 asked the same question above. On direct, plaintiff’s Expert Rodenbaugh said the percentage
16 of those who “would [] think [websites bearing the symbols are] connected, affiliated[,] or
17 associated” was “26 percent” (Oct. 7 Tr. 30). On cross, it came out that those in fact answering
18 “Yes” was under 10 percent (Oct. 7 Tr. 92). The same problems above apply again here.
19 Indeed, as for this scenario, it was not even proven that the symbol portion of Defendant’s
20 Composite ever has appeared or would apart from Defendant’s Composite.

21 73. Defendant’s more methodologically robust survey showed that the bottom-line
22 number for those likely to be confused was *zero* percent (Tr. 416). The survey did not show
23 the junior mark and senior mark together; indeed, it did not show the senior mark at all.
24 Instead, it showed consumers the junior mark on a copy of www.lawfirms.com, then relied on
25 them to answer if they believed the www.lawfirms.com services were put out by, affiliated
26 with, or approved by some other business, whose marks or name they might recall and then
27 write in. No one responded with LegalForce, Trademarkia, Raj Abhyanker, or anything
28 similar. This survey was run with likely consumers of plaintiff’s services and with likely

1 consumers of defendant's services. The answer was zero for either cohort. Because there was
2 no credible evidence that the two companies' marks have appeared or would ever appear in
3 proximity, and because LegalForce had no credible plans to increase the use or even awareness
4 of its marks, this approach in some ways better fit how the junior mark has made or would ever
5 make an impression on a consumer and how, if at all, that impression would be confused with
6 the senior mark. The defense survey and defendant's expert witness were far more credible
7 than plaintiff's, as further set out below.

8 74. The marks have some similarities but also differences that stand out to consumers
9 of legal services even if both are proximately compared. And, because plaintiff failed to prove
10 that any mark at issue has broad recognition or has appeared proximate to another mark at
11 issue, or that these circumstances are ever likely to change, the possibility of confusion
12 between the marks is essentially zero for that reason also.

13 **4. FURTHER FINDINGS RELATED TO CREDIBILITY AND WEIGHT.**

14 **A. *CONFUSION SURVEYS AND EXPERT WITNESSES.***

15 75. Plaintiff law firm designed a consumer confusion survey for the litigation; when it
16 did not like the results, it tossed that one, then designed another. Even the new test backfired,
17 as described above.

18 76. The instigator of this effort was plaintiff's chief executive officer and trial
19 counsel, Raj Abhyanker. At first, he disclaimed expertise in confusion surveys, after directing
20 the creation of one (Tr. 183); later, he claimed the entire discipline of confusion surveys was
21 methodologically broken, after his own creation was taken apart (Dkt. No. 323). What he
22 consistently lacked was credibility. He personally sought to manipulate the survey design and
23 then to lead his experts down a primrose path towards opining on more than what the survey
24 could support. To the extent either expert communicated with plaintiff about the survey as
25 plaintiff designed and undertook it, those communications were made while ignorant of
26 relevant, material information that plaintiff withheld. For instance, plaintiff never informed its
27 experts that no person seeking trademark lawyers had completed the interest form on
28 defendant's webpage during the period of alleged infringement.

1 77. One of the major faultlines underlying the construction of plaintiff's survey
2 presented at trial was that it lacked a control. Some people are easily confused. So, it is
3 helpful to a factfinder to know whether a portion of respondents in a survey that appear to be
4 confused by the accused mark are of the sort that would also be confused by some innocuous
5 mark (the control). The other side's survey contained this and other features for reliability.

6 78. Plaintiff, too, in fact had run a survey with a control. That survey had shown
7 there was no unusual amount of confusion at all: Respondents on average had not been
8 materially more flummoxed by the junior mark than by a control. Because such a result did
9 not support plaintiff's position, plaintiff's chief executive officer and trial counsel dropped the
10 control and re-ran the survey. This re-crafted survey was presented to the hired experts and to
11 the Court. Other methods to reduce bias were known to plaintiff but not followed in the re-
12 crafted survey.

13 79. And, even the re-crafted survey asked questions that incorporated false premises,
14 were ambiguously worded, and/or were reported to the Court with at first material omissions.
15 This point is already well-made by the examples above involving Expert Rodenbaugh.

16 80. Expert Rodenbaugh also destroyed his own credibility more broadly. For
17 instance, he testified that there remained a chance that a person having seen the senior mark at
18 a retail location more than a decade ago might still recall the mark well enough to be confused
19 by seeing the junior mark online today. Expert Rodenbaugh had no specific foundation nor
20 even specialized experience leading him to believe this could be true. Instead, he simply
21 testified to the answer plaintiff wanted rather than to the truth.

22 ***B. PLAINTIFF'S CHIEF EXECUTIVE AND TRIAL COUNSEL.***

23 81. During this litigation, Raj Abhyanker has made other representations to this
24 district court that proved untrue, when speaking as plaintiff's trial counsel, plaintiff's chief
25 executive officer, or for himself as a percipient witness.

26 82. As one example, across these roles, plaintiff law firm (led by Mr. Abhyanker)
27 alleged in its complaint that it had spent at least \$10 million advertising and promoting the
28 senior mark; Attorney Abhyanker provided this figure and some receipts respecting it to the

1 experts for use in their reports; Mr. Abhyanker then testified misleadingly under oath to having
2 spent \$10 million advertising the mark. On cross-examination it was revealed that zero of that
3 \$10 million had been spent buying ads showing the actual marks at issue. Money was spent
4 buying ads for “Trademarkia.” This was not a half truth; this was a no truth.

5 83. As an example from his role specifically as trial counsel: While cross-examining
6 design manager Neethu Ramchandrar, Attorney Abhyanker stopped short, turned, and said the
7 following to the Court: “Your honor, we were deprived of the opportunity to depose Lisa
8 Morita by the special master. We tried, and that’s all I have, so I don’t have any further
9 questions [for Ms. Ramchandrar]” (Tr. 295).

10 84. The Court followed up to learn about the lost opportunity to depose Ms. Morita,
11 who might have had some role in instructing or selecting the design of the accused mark.

12 85. Recall plaintiff had been unable to find any evidence of copying. At least three
13 levels of defendant’s staff were involved in defendant’s design of the composite: The designer
14 (Rahul Vazhayil), the design manager (Ms. Ramchandrar), and the chief operating officer
15 (Ms. Morita). *As for the designer*, plaintiff did not present any direct evidence at trial nor
16 complain about any inability to present it. *As for the design manager*, plaintiff took the
17 deposition and trial testimony of Ms. Ramchandrar. *As for the chief operating officer*,
18 Ms. Morita, plaintiff blamed the special master for denying a motion to compel her deposition,
19 bringing this lament to the district judge for the first time ever only after plaintiff’s counsel had
20 examined Ms. Ramchandrar at trial and then stopped abruptly.

21 86. The following exchange resulted shortly thereafter, which also included defense
22 counsel, Attorney Steven Schuman (Tr. 296–97):

23 **[ATTORNEY] SCHUMAN:** I do want to raise something
24 though. [Attorney] Abhyanker keeps making statements like he
25 was denied the ability to take this deposition. I don’t remember
26 anything like that happening. I think he exceeded his ten -- or he
met his ten deposition limit but I don’t recall anything about Lisa
Morita. I can’t swear there wasn’t, but I just don’t like him
making a record which is often just sort of made up.

27 **[ATTORNEY] ABHYANKER:** You know, this is so silly. *The*
28 *documents in the records speak for itself. This man lies regularly*
so I can, you know –

THE COURT: Now I'm looking skyward to the Court of Appeals. This is what I'm up against, Honorable Judges. One side says, yes, X; the other side said not X[;] they have no proof.

[ATTORNEY] ABHYANKER: I have proof.

87. So, the Court provided time for Attorney Abhyanker to find the record of the special master's decision. After the next break and well before the deadline given for submitting this record, Attorney Abhyanker reported he had found his motion to compel at Docket No. 57. This exchange resulted regarding the decision (Tr. 306):

THE COURT: What was the reason [the special master] gave for not letting you do it?

[ATTORNEY] ABHYANKER: I will have to review the record but we were --

THE COURT: Well, maybe there was a very good reason.

The Court indicated it was unhelpful that Attorney Abhyanker had looked up his motion but not the special master's corresponding order, and said: "He's a very fair person . . . if he said no, I'm going to trust him" (Tr. 306). Then, Attorney Abhyanker changed his position (*ibid.*):

[ATTORNEY] ABHYANKER: I remember now, Your Honor.

THE COURT: But you can't even tell me what his ruling was.

[ATTORNEY] ABHYANKER: I do. It was based on their opposition that he's [*sic*] -- apex doctrine. They're so high up in the company, go depose all of these other people. We tried. And we couldn't get anything from them and we were not able to get it from Morita. And this would have all been prevented -- they say we had nine depositions -- we tried to get Morita from the start.

THE COURT: I don't believe much of what you say anymore. You've exaggerated and are argumentative. Maybe there's a kernel of truth in it, I don't know, but you don't -- if you're going to make this argument to the Court of Appeals, back it up with paper.

[ATTORNEY] ABHYANKER: We will.

88. During the break, the district court for itself looked up the motion, at Docket No. 57, and the corresponding order of the special master, at Docket No. 66. As it turned out, Attorney Abhyanker had presented yet another falsehood (Tr. 372–73):

THE COURT: I want to put on the record something I looked up when we were on a break earlier today. [Attorney] Abhyanker complained about not having been able to take the deposition of someone named Lisa Morita and had said the special master had denied the request. And he referred specifically to document 57 as the thing we should go look at so we did. . . . [I]t's true that he made a motion to compel three people, including Lisa Morita. But here is the order by Special Master McElhinney which contradicts what [Attorney] Abhyanker said. I'll quote from the first page [of document 66].

["]The first section of plaintiff's motion concerned an effort to compel deposition testimony from three deponents.["]

And if you go back and look at number 57, that included Lisa Morita. Continuing,

["]LegalForce withdrew that portion of its motion after opposition had been filed when it became clear that no notices or subpoenas had been served in connection with the deposition.["]

So the motion was not denied. The motion was withdrawn on account of failure to give notice or subpoenas. That's what this document says.

So I hope when this case goes up to the Court of Appeals, the Court of Appeals will have the ability to take with a grain of salt the things that counsel is saying in this case and at least check it against the record, as we did here. Now you referred to [document] 57, that's what I did, and it does not support your position.*

5. FURTHER FINDINGS RELATED TO EXHAUSTIVENESS OF DISCOVERY.

89. Discovery was egregiously litigious. It was marked by failures by counsel on both sides.

90. Emblematic of the entire ordeal, plaintiff's first motion to compel was filed the night before our initial case management conference and contained over 335 pages of exhibits, violating the Court's standing order (*see* Dkt. No. 40). Then, the next morning, at the initial case management conference, defense counsel failed to appear, prompting an order to show cause (*see* Dkt. No. 41).

* Days later, plaintiff's counsel filed a 123-page submission changing its position on the Ms. Morita deposition yet again (Dkt. No. 326). When the Court issued an order explaining why that submission was not evidence at trial (Dkt. No. 329), plaintiff without leave added a further 11-page submission that changed its position in subtle ways once more (Dkt. No. 330). For avoidance of doubt, that was not trial evidence, either, and is **STRUCK** from the trial record.

91. Anticipating such problems would compound on both sides, the district judge requested that the parties stipulate to the appointment of a special master for discovery to oversee their disputes at their own expense (*see* Dkt. No. 42); they agreed (Dkt. No. 55). Special Master Harold McElhinny was for decades prior to recent retirement a premier trial and intellectual property lawyer at Morrison & Foerster LLP. He agreed to serve at a rate of only \$300 per hour as a service to the district court.

92. After Attorney Abhyanker's first four discovery motions had been denied, denied in part, or withdrawn, it was now Attorney Abhyanker's turn to oppose a motion to compel — which he lost in part. Special Master McElhinny ordered as follows (Dkt. No. 88 at 1–2):

Defendant served a Request For Production of Documents on September 19, 2024. . . . Plaintiff made no attempt to comply with the Local Rules that govern this case. It did not identify what files, if any, were searched. It did not supply a privilege log. As of today, [more than a month after start of discovery,] Plaintiff has yet to produce a single document. Plaintiff did not comply with Rule 34(b)(2)(C) which requires it to identify documents in its possession that it is withholding from production because of a stated objection.

Frankly, it is difficult to believe that Plaintiff's responses were produced in good faith. How can it be that not one document request sought relevant documents? While it is possible that every request was overbroad, that seems unlikely. Can we be this far into litigation and the Plaintiff, who presumably complied with its obligations under Rule 11, F.R.C.P., before filing the Complaint has not produced a single document either as part of its Initial Disclosures or through discovery? I don't think so.

93. Defendant, for its part, also prolonged productions and responses on important points even when it later came out that those productions and responses tended to support defendant. Most importantly, defendant delayed and delayed and delayed disclosing that its lead-generation website at issue, www.lawfirms.com, had not generated relevant intellectual property-related leads during the alleged infringement period.

94. Even after receiving discovery that showed virtually no damages would be recoverable in this action, plaintiff thereafter submitted eight more discovery filings. One of those eight before the special master sought an adverse inference at trial (Dkt. No. 172). As it turned out, the documents at issue in that motion, which plaintiff believed defendant still to be

1 withholding, in fact had been sitting in plaintiff's mailroom (Dkt. No. 190). Later, plaintiff
2 represented to the Court that it wished to dismiss the action after those eight discovery battles
3 because of what it had learned before them, if defendant would be barred from attorney's fees.

4 95. Such incompetence and malevolence on both sides led to *forty* discovery orders,
5 many of them omnibus orders, filed by Special Master McElhinny. As Special Master
6 McElhinny described the proceedings when partway through (Dkt. No. 139 at 1–2):

7 This is a routine trademark infringement action filed in Federal
8 Court because of the nature of the legal issues, not because of the
9 size of the damages sought. To date, no novel legal issue has
10 arisen. Unfortunately, the case has required a significant amount
11 of judicial oversight because of the toxic relationship among
12 counsel, a repeated lack of professionalism and courtesy on the
13 part of both parties, and a repeated failure to understand or to
14 follow the local rules that apply to the case. Relying on his many
15 years of experience, the District Judge foresaw from the earliest
16 filings the problems that were likely to arise. Recognizing that it
17 would be unfair to saddle a busy District or Magistrate Judge with
18 the effort of overseeing these dystopian personality issues, the
19 Judge directed the parties to the undersigned. Despite my best
20 efforts and constant encouragement, the case has unfolded as the
21 Judge foresaw. Getting the parties to meet and confer has been a
22 monumental task. Over a quarter of my decisions have had to
23 resolve complaints that one party or the other has failed to meet
24 and confer. Counsel repeatedly accuse each other of lying.
25 Counsel hang up on each other in the middle of calls. Counsel
26 repeatedly copy me on performative emails, despite my repeated
27 assurances that doing so cannot influence the outcome of my
28 decisions.

19 “Most lawyers would [have] die[d] in shame” (Dkt. No. 147). We went to trial.

20 96. Special Master McElhinny managed the issues arising between these parties with
21 great skill and aplomb. He ably served the United States District Court for the Northern
22 District of California in this discovery-intensive proceeding, and is duly thanked.

23 97. The immediate relevance of these findings is that no party here lacked robust
24 opportunity to seek and obtain discovery. Discovery was more fraught and prolonged than it
25 should have been — but discovery ultimately was obtained on both sides to the extent there
26 was anything to discover. It is the judgment of the district judge that the failure to find
27 supporting facts on one side or the other simply reflected that those facts did not exist.
28

CONCLUSIONS OF LAW

1. TRADEMARK INFRINGEMENT UNDER THE LANHAM ACT.

98. To prove infringement, plaintiff must establish (i) ownership of a valid registered mark “in connection with the sale, offering for sale, distribution, or advertising of any goods or services,” (ii) another’s use of a mark “likely to cause confusion, or to cause mistake, or to deceive” in connection with the sale of goods or services, and (iii) entitlement to any damages or injunctive relief. *See* 15 U.S.C. § 1114(1)(a) & (b); *KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc.*, 408 F.3d 596, 602 (9th Cir. 2005). Trademark validity and infringement involve mixed questions of fact and law. Because this was a bench trial, the district judge made both kinds of findings.

A. PLAINTIFF’S COMPOSITE.

(i) *Rights of Senior Mark: Valid, Owned, and Entitled to Exclusive Use in Market?*

99. A trademark is protectable by its owner for uses for which the mark serves to “identify the source of the [service] rather than the [type of service] itself.” *Inwood Lab ’ys, Inc. v. Ives Lab ’ys, Inc.*, 456 U.S. 844, 851, n. 11 (1982). To establish such facts, a court shall rebuttably presume certain facts as stated in the trademark’s registration:

A certificate of registration of a mark upon the principal register provided by this chapter *shall* be prima facie evidence of the validity of the registered mark and of the registration of the mark, of the owner’s ownership of the mark, and of the owner’s exclusive right to use the registered mark in commerce on or in connection with the goods or services specified in the certificate, subject to any conditions or limitations stated in the certificate.

15 U.S.C. § 1057(b) (emphasis added). Furthermore, “[t]o the extent that the right to use the registered mark has become incontestable under [S]ection 1065 of this title, the registration shall be conclusive evidence” of validity, ownership, and right to exclusive use — subjecting the presumptions only to narrowed rebuttals. *Id.* § 1115(b); *Casual Corner Assocs. v. Casual Stores of Nevada, Inc.*, 493 F.2d 709, 711–12 (9th Cir. 1974); *see also Metro Pub., Ltd. v. San Jose Mercury News*, 987 F.2d 637, 641 n.3 (9th Cir. 1993).

100. Here, defendant concedes that Plaintiff's Composite is valid, owned by plaintiff, and available for its exclusive use for the services at issue — so long as the Court finds the copy of the registration provisionally admitted to be a genuine one. Notably, defense counsel earlier represented to the Court that its client already had the certified copies, but defense counsel has never pointed to any specific reason to doubt the reliability of the copies provided by plaintiff. So, neither side made these points as simple as they should have been.

101. A non-certified copy of a registration may be admitted if supported by foundation. *Roar Spirits, LLC v. Sutter Home Winery, Inc.*, No. 23-CV-04809-HSG, 2025 WL 523898, at *4 (N.D. Cal. Feb. 18, 2025) (Judge Haywood S. Gilliam, Jr.) (citing decisions including *Autodesk, Inc. v. Dassault Sys. SolidWorks Corp.*, No. C 08-04397 WHA, 2008 WL 6742224, at *2 n.1 (N.D. Cal. Dec. 18, 2008)). Here, plaintiff sought to move into evidence a non-certified copy. Plaintiff laid foundation as to how this copy had been printed from the U.S. Patent and Trademark Office's online portal. It was provisionally admitted. After close of evidence, plaintiff renewed its motion (Dkt. No. 337). Defendant still did not point to any specific reason to doubt the printout's reliability (Dkt. No. 338). Then, in reply, plaintiff produced the certified copy itself (Dkt. No. 346). This certified copy did not deviate in substance from what was represented on the printout — showing the mark, its ownership by plaintiff, its exclusive uses, and its renewal under Sections 8 and 15 (including as incontestable). The certified copy is self-authenticating. *See Metro Pub.*, 987 F.2d at 641 n.3. For avoidance of doubt, both copies are **ADMITTED** into evidence.

102. Because defendant has not pointed to any of the limited statutory bases for rebutting an incontestable mark on these points, the mark is valid, owned by plaintiff, and exclusively available for its use in the services at issue here.

(ii) ***Infringed by Junior Mark: Used and Likely to Confuse?***

103. At the threshold, "trademark infringement claims require that the defendant use the [accused] mark 'in connection with' goods or services." *LegalForce RAPC Worldwide, PC v. LegalForce, Inc.*, 124 F.4th 1122, 1125 (9th Cir. 2024) (quoting Lanham Act).

Defendant here concedes that it collected information from clients seeking referrals to lawyers using Defendant’s Composite. Defendant argues, however, that this use was not “in connection with” any service because the clients did not pay for referrals, the lawyers did. That is of no moment to this requirement. Defendant could have charged the clients instead. A similar choice is available to the many businesses, from print newspapers to online platforms, able to sell either subscriptions to end users or else ad placements to partnering businesses. Nothing in the Lanham Act — which requires use at least “in connection with” selling a service — supports the concept that a defendant can launder its liability for confusing consumers into using its service by charging not its confused customers but its business partners who also benefit from the confusion. *See also Brookfield Commc’ns, Inc. v. W. Coast Ent. Corp.*, 174 F.3d 1036, 1057 (9th Cir. 1999). This issue is furthermore beside the point because there is no likely confusion here.

104. “The core element of trademark infringement is the likelihood of confusion” *E. & J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1290 (9th Cir. 1992). “The test for likelihood of confusion is whether a ‘reasonably prudent consumer’ in the marketplace is likely to be confused as to the origin of the good or service bearing one of the marks.” *M2 Software, Inc., v. Madacy Ent., Corp.*, 421 F.3d 1073, 1080 (9th Cir. 2005) (quotation and alteration omitted). Eight “*Sleekcraft*” factors guide the determination:

- (a) strength of [plaintiff’s] mark; (b) proximity[/relatedness] of [plaintiff’s and defendant’s] goods; (c) similarity of the marks;
- (d) evidence of actual confusion; (e) marketing channels used;
- (f) type of goods and the degree of care likely to be exercised by the purchaser; (g) defendant’s intent in selecting [its] mark; and
- (h) likelihood of expansion of the product lines.

Jada Toys, Inc. v. Mattel, Inc., 518 F.3d 628, 632 (9th Cir. 2008) (numbering replaced with lettering) (citing *Sleekcraft*, 599 F.2d at 348–49). A court need not consider every listed factor — and can consider unlisted ones. A court must, however, consider some subset of factors that caselaw and common sense suggest are critical under the circumstances. *Ibid.*

105. Here, the factual underpinnings of every *Sleekcraft* factor point against plaintiff, as above. *There was no confusion*. Plaintiff conceded as much. Nor was confusion likely:

1 *The senior mark was weak.* Plaintiff's Composite was on the "conceptually weaker end" and a
2 commercial waif: Plaintiff purchased no advertisements displaying it. Plaintiff promoted
3 "Trademarkia" instead, while recognition of "Trademarkia" did not translate into recognition
4 of "LegalForce." There was no credible evidence that anyone not involved in this litigation
5 could even recall Plaintiff's Composite. *The marks were not similar.* Yes, Plaintiff's
6 Composite and Defendant's Composite each arranged a squat parallelogram alongside a two-
7 worded description related to law. But the arrangement was itself a functional commonplace,
8 there were differences in the symbols ("L^F" versus column, with a gradient of color versus one
9 flat shade), there were differences in the words (bolding one versus two words, while
10 describing one legal team versus a service reaching all law firms) — and the differences stood
11 out. *The marks have not appeared in the same specific marketing channels.* No web search
12 retrieved both. And, while plaintiff's mark was on LinkedIn but not Instagram, defendant's
13 mark was on Instagram but not LinkedIn. There was no credible evidence that the senior and
14 junior mark *ever* appeared head-to-head or serially in the same channel or likely would. *The*
15 *services were not related.* Yes, both parties' services relate to law, at the highest level of
16 generality. But providing legal services as a law firm is not the same as selling leads to many
17 law firms as a referral service — not in fact, nor as it appears to those using each. Plaintiff's
18 www.legalforce.com law firm mainly served individual businesspeople with trademark issues.
19 Defendant's www.lawfirms.com referral service mainly served individual people looking to
20 find and compare lawyers to help with a personal need such as after an accident. Yes, there
21 was some overlap. It was incidental, not targeted: Defendant collected a small number of
22 leads for trademark lawyers during all periods plaintiff put at issue, and zero during the period
23 using the accused mark. *Nor will there be any expansion.* Plaintiff has had years to expand.
24 Its newfound plan to do so is a litigation gimmick. *People seeking lawyers are not careless.*
25 Moreover, *there was no intent to confuse.* Defendant had no reason to do so. Plaintiff was not
26 well known, the two did not overlap much in what they offered, and neither was likely to
27 change much.

1 106. No matter how these factors are combined or weighed, they come out against
2 plaintiff. So, nothing changes if we focus upon the so-called “troika” of *Sleekcraft* factors
3 sometimes exclusively considered — the similarity of the marks, similarity of the services, and
4 similarity of the marketing channels. *See Brookfield Commc’ns*, 174 F.3d at 1054; *Network*
5 *Automation, Inc. v. Advanced Sys. Concepts, Inc.*, 638 F.3d 1137, 1148–49 (9th Cir. 2011); *see*
6 *also Sleekcraft*, 599 F.2d at 348. Likewise, nothing changes in end result if we stress any
7 subsets of factors most salient to *initial interest confusion* (diverting potential buyers even if
8 those buyers are no longer confused at point of sale), *forward confusion* (stealing another’s
9 reputation), *reverse confusion* (displacing another’s reputation or ability to accrue one), or
10 *post-sale confusion* (duping other future buyers of services when they look at the services
11 procured by a prior buyer who was not confused). Whether or not all were pleaded, none was
12 proven.

13 107. Nor is it any barrier to a conclusion of non-infringement that the senior mark is
14 incontestable. Yes, a mark that is incontestable is valid and entitled to exclusive use in a given
15 market space. But the same factors considered when establishing a mark’s validity may be
16 considered again when evaluating a mark’s strength for likelihood of confusion. And, even if
17 incontestable, a mark that remains conceptually and commercially weak cannot be asserted to
18 exclude from its designated market other trademarks that are unlikely to be confused with it.
19 *M2 Software*, 421 F.3d at 1081 (quoting *Sleekcraft*, 599 F.2d at 350).

20 108. And, while plaintiff’s complaint did survive a motion to dismiss on the alleged
21 facts, those facts were not proven to be the actual facts. Our court of appeals has held that
22 because trademark infringement presents questions of law deeply intertwined with questions of
23 fact, it can be “premature for the district court” to “dismiss [a trademark] complaint” by
24 discounting the alleged facts while imagining some other ones as a matter of law. *See Trader*
25 *Joe’s Co. v. Trader Joe’s United*, 150 F.4th 1040, 1055 (9th Cir. 2025); *see also Marketquest*
26 *Grp. v. BIC Corp.*, 862 F.3d 927, 935 (9th Cir. 2017) (“[W]e reiterate that ‘summary judgment
27 is generally disfavored’ in trademark cases, [too,] due to ‘the intensely factual nature of
28 trademark disputes.” (quoting *Fortune Dynamic, Inc. v. Victoria’s Secret Stores Brand Mgmt.*,

1 *Inc.*, 618 F.3d 1025, 1031 (9th Cir. 2010)). By the same token, we cannot now discount the
2 actual facts by going back to the alleged ones.

3 109. Discovery in this action was vigorous. Eventually, discovery closed. We had a
4 four-day bench trial. Despite scorched-earth discovery, at trial plaintiff frequently lacked any
5 evidence or else provided contrivances. Plaintiff's witnesses were, for the most part, not
6 credible on anything important. Plaintiff's trial counsel, chief executive officer, and star
7 witness (all the same person, Raj Abhyankar) made misleading representations throughout the
8 case with a frequency unmatched in the undersigned's more than quarter century on the bench.
9 Defense counsel, too, joined in making molehills into monstrosities. Still, defendant's
10 evidence and witnesses were more credible, as above.

11 * * *

12 110. There is no legal basis to sweep away the findings of fact with some contrary
13 finding of law. There was and is no likelihood of confusion involving Plaintiff's Composite
14 and Defendant's Composite. *A fortiori*, there was and is no likelihood of confusion involving
15 Plaintiff's Composite and Defendant's Replacement.

16 ***B. PLAINTIFF'S SYMBOL.***

17 111. Plaintiff presented no separate basis to show why Plaintiff's Symbol, if valid, was
18 infringed by any mark used by defendant. In key respects, plaintiff provided even less
19 evidence as to this mark. And, what evidence was provided vaporized the case for
20 infringement. For instance, plaintiff provided no credible evidence that defendant has used or
21 ever would use the *symbol portion of Defendant's Composite* apart from Defendant's
22 Composite. Meanwhile, Plaintiff's Symbol disclaimed color, so it was less distinct even than
23 the *symbol portion of Plaintiff's Composite*. This pitted defendant's full composite against
24 plaintiff's weaker symbol. Recall Defendant's Composite did not infringe Plaintiff's
25 Composite. Defendant's marks did not infringe Plaintiff's Symbol, either.

2. OTHER CLAIMS.

112. Plaintiff proposed no findings of fact or law specific to the remaining claims, and its responses to defendant's proposed findings in these areas were conclusory.

A. TRADEMARK INFRINGEMENT UNDER CALIFORNIA LAW.

113. Likelihood of confusion is an essential element of trademark infringement under California common law. And, the standards for confusion under that law are not so different from those under the federal law as to demand a different result. *Dreamwerks Prod. Grp. v. SKG Studio*, 142 F.3d 1127, 1129 n.2 (9th Cir. 1998). Plaintiff did not prove its claim; plaintiff abandoned its claim.

B. FALSE ADVERTISING UNDER THE LANHAM ACT.

114. Plaintiff never provided a separate theory for false advertising apart from false designation of origin using the marks. Because there is no likelihood that designating defendant's services using defendant's marks has any "tendency to deceive a substantial segment" of the market, there can be no false advertising, either. *Southland Sod Farms v. Stover Seed Co.*, 108 F.3d 1134, 1139 (9th Cir. 1997); *Walter v. Mattel, Inc.*, 210 F.3d 1108, 1110 n.1 (9th Cir. 2000). Plaintiff also abandoned this claim.

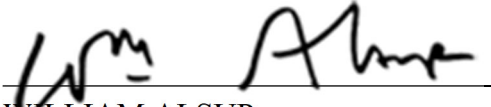
CONCLUSION

None of plaintiff's marks at issue (Plaintiff's Composite or Plaintiff's Symbol) has been or would be likely to be confused with any portion or the entirety of any of defendant's marks (Defendant's Composite or Defendant's Replacement).

Defendant is entitled to judgment in its favor on all claims.

IT IS SO ORDERED.

Dated: December 18, 2025.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE